

EXHIBIT 9

WORKFORCE DEVELOPMENT LETTER: 99-09(chg. 1)

SUBJECT: Establishment and Certification of Local Workforce Investment Boards

DATE: February 2, 2000

I. INTRODUCTION

"The Workforce Investment Act (WIA) of 1998 represents a national consensus on the need to restructure a multitude of workforce development programs into an integrated workforce investment system that can better respond to the employment needs of its customers. At the local level the focal point of the restructuring is the Workforce Investment Board. These local boards will set policy for the local areas. Therefore, the membership of these local boards is critically linked to the ability of the local systems to meet the needs of their customers.

Enclosed are information and instructions necessary to request local Workforce Investment Board certification. Each area or consortium of governments seeking Workforce Investment Board certification from the Governor must submit a request for certification to the State Workforce Investment Office (SWIO).

II. AUTHORITY

1. **[Ref. - Act Sec. 117(a)]** The Workforce Investment Act (WIA)) provides for the establishment of local Workforce Investment Boards, which must be certified by the Governor.
2. **[Ref. - Act Sec. 117(b)(1)]** WIA provides for the Governor together with the State Board to establish criteria for use by local chief elected officials for the appointment of members to local boards.**[Ref. - Act Sec. 117(b)(2)]** WIA provides for the minimum membership requirements of local boards and allows for additional categories of membership identified by the chief elected official.
3. **[Ref. - Act Sec. 117(c)(1)(A) and (B)]** WIA provides for the appointment of Workforce Investment Board (WIB) members. In areas where the Workforce Investment Area consists of a single unit of government, WIB members shall be appointed by the chief local elected official for the area. Where a Workforce Investment Area consists of more than one general unit of government, there shall be an agreement among the local chief elected officials of the area which identifies the respective role of the chief elected

officials relative to the appointment of WIB members.

4. **[Ref. - Act Sec. 117(b)(3)]** WIA provides that members of the Workforce Investment Board that represent organizations, agencies or other entities shall be individuals that have optimum policymaking authority within the organizations, agencies or other entity that they represent.
5. **[Ref. - Act Sec.117(c)(1)(B)(i)(III)]** WIA provides that where consortiums of multi unit governmental jurisdictions cannot agree on the method of appointment the Governor shall make the appointment of WIB members.

III. DEFINITIONS

For purposes of these guidelines the following definitions shall apply:

1. **Lead Elected Official of a Consortium(LEO)** – the elected official as agreed upon in accordance with the Intergovernmental Agreement to represent the Consortium as required under the Workforce Investment Act of 1998.
2. **Chief Local Elected Official of a Municipality(CLEO)** – the elected official designated by a municipality's legislative body to represent the municipality in the Consortium created by an Intergovernmental Agreement.
3. **COG – Council of Governments** -- formed through an agreement between the participating municipalities and which has been approved by each of the participating municipalities.
4. **Grant Recipient** – The Consortium or Council created by the Intergovernmental Agreement or the individual Consortium member (municipality) which has been designated to receive and disburse federal and state funds for implementation of workforce and if applicable social service programs.
5. **Intergovernmental Agreement** – an agreement entered into by the local chief elected officials for the municipalities comprising a Workforce Investment Area designated by the Governor to implement workforce investment activities in accordance with federal and state laws. The agreement may be in the form of an interlocal agreement, a COG agreement, or an agreement entered into under the general contracting authority of local governmental units. Regardless of format the agreement must at a minimum contain the elements required by these instructions.
6. **Sub-Grant Recipient** – A Workforce Investment Board, which has been designated by the Consortium or Council created by an Intergovernmental Agreement, to administer, receive, and disburse federal and state funds

allocated for the implementation of workforce development and social service programs.

7. **Workforce Investment Boards** – Majority private sector boards appointed in accordance with Intergovernmental Agreements entered into by the municipalities which comprise local Workforce Investment Areas and which also serve as Workforce Investment Boards in accordance with the Workforce Investment Act of 1998. Membership must comply with federal and state law.
8. **Community Based Organization** – A private nonprofit organization that is representative of a community or a significant segment of a community that has demonstrated expertise and effectiveness in the field of workforce investment.

IV. INSTRUCTIONS

1. Requests for certification must come from the lead elected official of the consortium or his/her designee.
2. A single joint request for certification is required for Workforce Investment Areas consisting of more than one unit of local government. A process for determining who shall act as the Lead Elected Official of the consortium for a Workforce Investment Area must be detailed in the Intergovernmental Agreement between the municipalities which together make up the Workforce Investment Area.
3. The local chief elected official for the Workforce Investment Area must sign certification requests from single area jurisdictions. Where a new Intergovernmental Agreement has been entered into in accordance with these instructions the Lead Elected Official of the Consortium, as designated by the Agreement, shall sign the Certification Request. Each duly authorized local chief elected official for each municipality party to the agreement must sign certification requests from multiple area jurisdictions, which are relying on the previous JTPA Consortium Agreement.
4. The request for designation should be accompanied by the minutes or a resolution from the meeting at which authorization to participate in the Consortium was voted on by the municipality. To accommodate the varying meeting schedules a signature from the Chief Local Elected Official will suffice for purposes of submitting this application. Within 90 days of submission of this request a copy of the minutes or resolution authorizing participation in the Consortium by each participating, municipality must be received by the State.
5. The Intergovernmental Agreements must at a minimum specify:

- a. The process agreed to for selection of the Lead Elected Official of the Workforce Investment Area.
- b. The process agreed to for the selection of Workforce Investment Board members from nominations made in accordance with WIA.
- c. The identification of the Grant Recipient.
- d. The identification of the Fiscal Agent and or Sub Grant Recipient.
- e. A statement with respect to the approval process adopted by each Consortium member local government, authorizing entry into the Intergovernmental Agreement, and designating an elected official from the municipality to serve on the Council created by the Consortium Agreement who will be authorized to act for the municipality.
- f. The term of the Agreement.
- g. A termination clause.
- h. How meetings will be scheduled to address the business of the Council created, along with quorum and voting requirements.
- i. Who among the Consortium members shall represent the WIA and Welfare to Work funding streams on the local Workforce Investment Board?
- j. Identification of the powers and authority of the Council created.
- k. A statement with respect to those powers which will be exercised jointly with the Workforce Investment Board to be appointed by the Consortium.
- l. A statement with respect to the assumption of liability, accountability and responsibility for the funds to be allocated to each local Workforce Investment Area.
- m. The terms of the appointments of the Workforce Investment Board members.
- n. Additional individuals or categories of membership than those prescribed by WIA section 117.
- o. Workforce Investment Areas that have already executed Interlocal Agreements should develop an addendum to the Agreement and include any item a-n that was not listed.

6. All requests for WIB Certification must be submitted by June 1, 2000 to:

Robert Palumbo, WIA Liaison
Department of Labor & Training
101 Friendship St.
Providence, RI 02903

Please mark "Certification Request" on the outside of the envelope.

7. Such request must include the following membership information:

- a. Name of Workforce Investment Board member, title, business address, and phone number.
- b. A brief description of the Workforce Investment Board member's functional employment responsibilities and the qualifications of the Workforce Investment Board member.
- c. Agency and/or sector affiliation (business, education, labor, community based organization, economic development and/or One-Stop partner). The Workforce Investment Board member's term of appointment (including beginning and ending dates).
- d. If the member is a Workforce Investment Board officer, indicate the position held.

V. WORKFORCE INVESTMENT BOARD MEMBERSHIP NOMINATIONS

1. All nominations for the private sector/business members of the WIB must come from local business organizations and business trade associations.
2. Nominations for educational representatives to the WIB, excluding the educational representatives of mandated one-stop partners, must come from among individuals nominated by local educational agencies, institutions, or organizations representing such local educational entities.
3. Nominations for labor representatives to the WIB must come from nominations by recognized state and local labor federations, or, for a local area in which no employees are represented by such organizations, other representatives of employees.

4. All other nominations to categories of membership required under section 117 of WIA shall be at the initiation of the chief local elected official(s) for the Workforce Investment Area, except for representatives of the One-Stop mandatory partners

5. Nominations of Mandatory One-Stop Partners

- a. Representatives of the One-Stop partners who are employees of the State shall be nominated by the Head of their respective agency.
- b. Representatives of community colleges shall be nominated by the Chancellor of the community college system.
- c. The Lead Elected Official in accordance with the Intergovernmental Agreement may designate an elected official which can be any member of the Consortium or of the legislative bodies of their respective municipalities or from among the highest ranking executive of their municipalities to represent the three Workforce Investment Act funding streams, adult, youth and dislocated worker, and the Welfare to Work funding stream. At the option of the local Consortium of Elected Officials, one individual may be appointed to represent these four funding streams. Sub-Grant Recipient or administrative staff of the local Workforce Investment Board cannot be designated as this representative.

VI. WORKFORCE INVESTMENT BOARD MEMBERSHIP REQUIREMENTS

1. Business

[Ref. - Act Sec. 117 (b)(2)(A)(i)] -- Private Sector Representatives of businesses in the local area, appointed to local WIBs shall be:

- a. Owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority
- b. A majority must represent businesses that reflect the employment opportunities within the local workforce Investment area.
- c. Private sector representatives shall constitute a majority of the members.
- d. Nominations shall be solicited from local business organizations and business trade associations.

2. Education

[Ref. - Act. Sec. 117 (b)(2)(A)(ii)] -- representatives of "local educational entities, including representatives of local educational agencies, local school

boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist)", selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities. WIA also requires that Carl Perkins Vocational Education and Adult Basic Literacy be represented on the Board as one-stop partners. Where either of the education representatives also represent the one stop partners, one educational representative may fill multiple categories.

- a. The board must have a minimum of two educational representatives.
- b. The two educational One-Stop partners, Adult Education and Literacy and Postsecondary Vocational Education may satisfy the educational requirement. Please note the nomination requirements for educational representatives as stated in the Workforce Investment Act must be met even if a One-Stop partner is selected as an educational representative.

3. Labor

[Ref. - Act Sec. 117 (b)(2)(A)(iii)] -- At least two (2) representatives of labor organizations for a local area in which employees are represented by labor organizations, or for a local area in which no employees are represented by such organizations, other representatives of employees.

4. Community Based Organizations

[Ref. - Act Sec. 117(b)(2)(A)(iv)] At least two (2) representatives of community-based organizations (CBOs) including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present. WIA does not mandate that CBO representation on a local board be from organizations representing individuals with disabilities and veterans but that "special consideration" be given to these organizations.

LEOs shall solicit nominations from a wide variety of community-based organizations that deal with workforce development or human services with emphasis on those that service targeted populations such as veterans and people with disabilities.

It is recommended that the community-based organizations have a strong tie to workforce development, serve a large portion of the Workforce Investment Area and that they represent the diverse aspects of the population.

5. Economic Development

[Ref. Act. Sec. 117 (b)(2)(A)(v)] -- Two (2) representatives of economic development agencies which may include local planning and zoning commissions or boards, community development agencies and other local

agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

LEOs shall solicit nominations from local economic development entities both public and private. The LEOs are encouraged to use organizations such as Rhode Island Economic Development Corporation to identify appropriate economic development entities in their area.

6. One-Stop Partners

[Ref. - Act Sec. 117 (b)(2)(A)(vi)] -- One representative of each of the one-stop partners.

a. Adult, Dislocated Worker, and Youth Activities (One-Stop Partner)

The LEO shall be the representative for the Title I Adult, Youth and Dislocated Worker Programs or may designate a representative as described in Section V paragraph c. This representative may also serve as the Welfare-to-Work representative.

b. Employment Service (One-Stop Partner)

The LEO shall solicit nominations from the Director of the State Department of Labor and Training. This person may also serve as the representative for Trade Adjustment Assistance, NAFTA and Migrant and Seasonal Farmworkers programs.

c. Adult Education and Literacy

The representative must be from a comprehensive adult basic education provider and may also serve as one of the educational representatives if all requirements for the educational representative and Adult Education and Literacy representative are met.

The LEO shall solicit nominations from the Commissioner of Education.

d. Postsecondary Vocational Education

The LEO shall solicit nominations from local Postsecondary vocational education boards in the area to represent postsecondary vocational education. This representative may also serve as one of the educational representative if all requirements for the educational representative and Postsecondary Vocational Educational representative are met.

e. Vocational Rehabilitation (One-Stop Partner)

The LEO shall solicit nominations from the Administrator of the Office of Rehabilitation Services.

f. Welfare-to-Work (One-Stop Partner)

The LEO shall be the representative for the Title I Welfare-to-Work Programs or may designate a representative as described in Section V paragraph d. This representative may also serve as the Title I Adult, Dislocated Worker and Youth representative.

g. Title V Older Worker (One-Stop Partner)

The LEO shall solicit nominations from the Director of the State Department of Elderly Affairs. In selecting board member(s), it is recommended that the Title V representatives have a strong tie to workforce development in the local area.

h. Trade Adjustment Assistance(One-Stop Partner)

The LEO shall solicit nominations from the Director of the State Department of Labor and Training. This person may also serve as the representative for the Employment Service, NAFTA and Migrant and Seasonal Farmworkers programs.

i. NAFTA Transitional Adjustment Assistance

The LEO shall solicit nominations from the Director of the State Department of Labor and Training. This person may also serve as the representative for the Trade Adjustment Assistance, Employment Service and Migrant and Seasonal Farmworkers programs.

j. Veterans Employment and Training Programs

The LEO shall solicit nominations from the Director of the State Department of Labor and Training.

k. Community Service Block Grants

The LEO shall solicit nominations from all Community Service Block Grantees in the area that administer employment and training programs or activities. Community Action Program Agencies that administer employment and training programs/activities would be an example. This person may also serve as the representative for Housing and Urban Development if the agency administers CSBG and HUD funded programs.

l. Housing and Urban Development-HUD

The LEO shall solicit nominations from HUD grantees in the local area that administer employment and training programs or activities. This person may also serve as the representative for Community Service Block Grants if the agency administers CSBG and HUD funded programs.

In selecting board member(s), it is recommended that the Housing and Urban Development representative have strong ties to workforce development in the local area.

m. Unemployment Insurance (One-Stop Partner)

The LEO shall solicit nominations from the Director of the State Department of Labor and Training.

n. Job Corps (One-Stop Partner)

The LEO shall solicit nominations from the Job Corps staff located in the state.

o. Migrant and Seasonal Farmworker Programs

The Director of the Department of labor & Training will nominate a candidate to the LEO to represent Migrant and Seasonal Farmworker Programs on the local Workforce Investment Board. This person may also serve as the representative for the Trade Adjustment Assistance, NAFTA and the Employment Service.

p. Native American Programs

The Executive Director for the Rhode Island American Indian Council will nominate a candidate to the LEO to represent Native American Programs on the local Workforce Investment Board.

q. Other One-Stop Partners

Additional One-Stop partners must also be represented on the local Board if the One-Stop partner and the local Workforce Investment Board have negotiated and signed a Memorandum of Understanding

7. Other Board Members

a. **[Ref. - Act Sec. 117 (b)(2)(B)]** The LEO "may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate."

b. The rationale for how these other board members are appropriate additions to the board must be included in the request for board certification.

8. Replacing Members

Members appointed to the local WIB who cease to represent the category of membership to which they were appointed must be replaced within 60 days of the time that notice is provided to the local WIB Chair.

VII. POLICY FOR THE CERTIFICATION/RE-CERTIFICATION/DE-CERTIFICATION OF THE LOCAL WORKFORCE INVESTMENT BOARD
[Ref. - Act Sec. 117(2)]

1. The Governor shall certify the Workforce Investment Board if the Governor determines that its composition and appointments are consistent with law and State policy. Such certification will be for a period not to exceed two years.

2. WIBs will be re-certified every two years in accordance with WIA. Recertification after the first two year period shall be dependent upon various factors including but not limited to whether the local Workforce Investment Area has met substantial performance under WIA. Substantial performance shall be defined under a separate policy to be promulgated by the Governor.
3. The Governor reserves the right to decertify any local WIB upon 30 days written notice where there is evidence of fraud, abuse or failure to carry out the functions specified in WIA or the regulations promulgated there under. WIBs shall have an opportunity for comment during the thirty-day period.
4. Where in the opinion of the Governor or his or her designee, WIA funds appear to be at risk, due to suspected fraud or abuse, the Governor can immediately request that the local chief elected official(s) designate an alternative grant recipient, sub grant recipient and/or fiscal agent during the de-certification comment period or investigation period as appropriate. The Governor may also act as the grant recipient/fiscal agent in cases of fraud or abuse as the Governor deems appropriate, for such time until appropriate corrective action has been taken.
5. The Governor may decertify a WIB where the local Workforce Investment Area has not substantially met performance requirements in accordance with their local five-year strategic plan.
6. Requests to Grandfather existing Private Industry Councils will not be considered. WIA at section 117(i) provides that "a State may use any local entity (including a local council, workforce investment board, or similar entity) that," meets additional criteria set forth in that section of the Act. The Governor has determined that in accordance with the spirit and intent of the WIA it would not be in the best interest of the State to allow the use of alternative entities in place of the appointment of a new WIB. Therefore there is no provision for local level requests to grandfather existing Workforce Investment Boards. All Workforce Investment boards will have to meet the membership requirements of WIA in order to be certified.

VIII. LOCAL ELECTED OFFICIAL - WIB AGREEMENTS

WIA no longer requires an agreement between the local elected officials and Workforce Investment Boards. An agreement between the Consortium of Elected Officials and local Workforce Investment Boards will be required only where the Workforce Investment Board will be the Sub Grant Recipient acting as the fiscal agent/administrative entity. Even where the Workforce Investment Boards serve as the Sub Grant Recipient, local chief elected officials may not transfer

accountability for the funds or responsibilities assigned to them under the Workforce Investment Act of 1998. Workforce Investment Boards may only serve as Sub Grant Recipients if the Board is incorporated as a not for profit corporation pursuant to the Rhode Island Statutes and applicable federal law.

IX. LOCAL WORKFORCE INVESTMENT BOARD RESPONSIBILITIES

[Ref. - Act 117(d) Regs. Sec. 661.305 (a)]

See attachment 1

X. YOUTH COUNCILS

Since the Youth council is a sub-group of the local Workforce Investment Board, the SWIO will issue separate policy guidance on the establishment of Youth councils.

XI. ALTERNATIVE ENTITY

[Ref. - Act Sec. 117(i)] The Chief Local Elected Official may select to use an alternate entity to function as the WIB until such time as the full WIB is certified for the purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h) of the Act. The alternative entity may be any local entity (including a local council, regional workforce development board, or similar entity) that was established to serve the local area (or the service delivery area that most closely corresponds to the local area) that was in existence on December 31, 1997 and was established pursuant to section 102 of the Job Training Partnership Act.

The LEO does not need to have existing members renominated if the LEO intends to appoint the existing member to serve on the WIB as one of the required members. However, new members must be added to meet the requirements of the Workforce Investment Act and the provisions of this policy. All new members will need to be nominated in compliance with law and this policy and will need to sign Conflict of Interest statements as required by the Rhode Ethics Commission. All the Workforce Investment Board appointments should be made in sufficient time to meet the June 1, 2000 request for certification in order to provide sufficient time for the Board to be certified prior to July 1, 2000.

Nothing stated in this section shall preclude the referring agency from nominating a different person from the existing member already serving on the alternative entity.

Attachment 1

Local Workforce Investment Board Responsibilities

- Elect a chairperson for the board;
- Develop and submit a 5-year local plan to the Governor;
- Select operators and providers, designate or certify one-stop operators, and terminate operator eligibility when necessary;
- Develop a budget for the purpose of carrying out the duties of the local board subject to the approval of the chief elected official;
- Conduct local employment and training oversight;
- Negotiate local performance measures;
- Assist the Governor in the development of a statewide employment statistics system;
- Coordinate workforce investment activities with economic development strategies and develop other employer linkages;
- Promote participation of the private sector employers in the statewide workforce investment system to assist them in meeting hiring needs;
- Inform the public regarding Local Board activities;
- Provide core and intensive services described in the sections 134(d)(2) and 134(d)(3) through a one-stop system described in 134(c);
- Develop a conflict of interest policy statement;
- Establish youth councils as a subgroup within each local board;
- Develop and enter into a memorandum of understanding with one-stop partners, designates or certifies one-stop operators;
- Conduct oversight with regards to the one-stop delivery systems;
- Certify one-stop delivery systems established in local areas prior to enactment of this Act in partnership with the chief elected official and the Governor;
- Determine the need for additional information that providers of training may be required to produce;
- Provide access to the most cost effective methods for collection of additional verifiable program specific performance information required by the Governor in order to determine if a training provider is eligible to provide services under the Act;
- Maintain a list of providers eligible and those submitting applications as providers of training;
- Conduct oversight, identify eligible providers of youth activities, and award grants or contracts on a competitive basis, consistent with the State plan to carry out these activities;
- Ensure participants or applicants receive appropriate services;
- Ensure parents, participants, and community, are involved in the development and implementation of youth programs;
- Create volunteer opportunities for program graduates;
- Develop local transfer of funds policies in accordance with the Act;
- Establish One-stop delivery systems;
- Make accessible a list of eligible providers of training services to include performance and cost information;
- Determine exceptions to required use of individual training accounts to

provide training services;

- Negotiate local levels of performance based on the State adjusted levels;
- Conduct in coordination with the State Board ongoing evaluation studies of workforce investment activities carried out in the State in order to promote, establish, implement, and utilize as a method of continuous improvement;
- Recommend standards and procedures regarding Job Corps programs within the State;
- Consult with the Secretary of Labor in the development of solicitations for operators or service providers for Job Corps centers;
- Determine the functional relationship between Job Corps centers and one-stop centers to avoid the duplication of services. Evaluate the benefits of including Job Corps programs as additional one stops;
- Determine if Job Corps Industry Council membership will include local workforce investment board members;
- Use funds to carry out youth activities described in the Act, and provide intensive placement and follow up services;
- Apply to the Secretary for youth opportunity grants;
- Request technical assistance and other support as necessary for regular operations of programs;
- Make decisions regarding applying for demonstration, pilot, multi service, research, and multistage projects/grants from the Department of Labor;
- Make application for National Emergency Grants;
- Establish grievance and complaint procedure;
- Establish procedures for reporting, record keeping, and monitoring;
- Make reports concerning operations and expenditures readily accessible, maintain comparable management information systems, and monitor performance;
- Develop and issue a nondiscrimination policy statement consistent with Federal law;
- Submit a waiver request and waiver plan to the Governor for submission to the Secretary of Labor;
- Enter into agreements with other areas to pay or share costs of educating, training or supportive services for individuals participating in the program; and
- Consult with the Secretary and the Governor regarding any activity funded by the secretary of Labor under the Workforce Investment Act.